

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 62

February 8, 1995, 12:00 p.m.
Page S-2307 Temp. Record

BALANCED BUDGET AMENDMENT/7-Year Tax-Spend Plan First

SUBJECT: A Resolution Proposing a Balanced Budget Amendment to the Constitution of the United States . . . H.J. Res. 1. Dole motion to table the Daschle motion to commit with instructions.

ACTION: MOTION TO TABLE AGREED TO, 56-44

SYNOPSIS: Pertinent votes on this legislation include Nos. 63 and 65-98.

As passed by the House, H.J. Res. 1, a resolution proposing a Balanced Budget Amendment to the Constitution, is virtually identical to the balanced budget constitutional amendment that was considered last year by the Senate (see 103d Congress, second session, vote Nos. 47-48). The resolution: will require a three-fifths majority vote of both Houses of Congress to deficit spend or to increase the public debt limit; will require the President's annual proposed budget submission to be in balance; and will require a majority of the whole number of each House to approve any bill to increase revenue. Congress will be allowed to waive these requirements for any fiscal year in which a declaration of war is in effect. Congress will enforce and implement this amendment by appropriate legislation. The amendment will take effect in fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later. The States will have 7 years to ratify the amendment.

The Daschle motion to commit the resolution to the Judiciary Committee would instruct the Committee to report back the resolution forthwith with a Daschle substitute amendment that would add a new section 9 to the resolution. Section 9 would direct Congress to adopt a concurrent budget resolution setting forth a detailed budget plan with binding reconciliation instructions to achieve a balanced budget by the effective date of this constitutional amendment. H.J. Res. 1 could not be submitted to the States for ratification until after Congress adopted that budget plan. For each fiscal year, starting with fiscal year 1996, the budget plan would detail the following: aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus; totals of new budget authority and outlays for each major functional category; new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least \$100 million in fiscal year 1994; and an allocation of Federal revenues among the major sources of such revenues. Further, the amendment would require "a detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan, and the

(See other side)

YEAS (56)			NAYS (44)		NOT VOTING (0)	
Republicans (53 or 100%)	Democrats (3 or 6%)		Republicans (0 or 0%)	Democrats (44 or 94%)	Republicans (0)	Democrats (0)
Abraham	Hutchison	Campbell		Akaka	Inouye	
Ashcroft	Inhofe	Heflin		Baucus	Johnston	
Bennett	Jeffords	Simon		Biden	Kennedy	
Bond	Kassebaum			Bingaman	Kerry	
Brown	Kempthorne			Boxer	Kerry	
Burns	Kyl			Bradley	Kohl	
Chafee	Lott			Breaux	Lautenberg	
Coats	Lugar			Bryan	Leahy	
Cochran	Mack			Bumpers	Levin	
Cohen	McCain			Byrd	Lieberman	
Coverdell	McConnell			Conrad	Mikulski	
Craig	Murkowski			Daschle	Moseley-Braun	
D'Amato	Nickles			Dodd	Moynihan	
DeWine	Packwood			Dorgan	Murray	
Dole	Pressler			Exon	Nunn	
Domenici	Roth			Feingold	Pell	
Faircloth	Santorum			Feinstein	Pryor	
Frist	Shelby			Ford	Reid	
Gorton	Simpson			Glenn	Robb	
Gramm	Smith			Graham	Rockefeller	
Grams	Snowe			Harkin	Sarbanes	
Grassley	Specter			Hollings	Wellstone	
Gregg	Stevens					
Hatch	Thomas					
Hatfield	Thompson					
Helms	Thurmond					
	Warner					

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

effective date of each such change." The appropriate committees of each House would then be given "reconciliation directives" within the meaning given such directives by "section 310(a) of the Congressional Budget Act of 1974." Those directives would require committees "to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan." The budget committees would then combine those changes into omnibus reconciliation bills without making "substantive revisions," and those bills would then be considered by the Senate and the House, respectively, in accordance with "section 310." Finally, the Daschle substitute amendment would provide that the budget plan would be based upon Congressional Budget Office economic and technical assumptions and estimates.

Debate was limited by unanimous consent. Following debate, Senate Dole moved to table the Daschle motion to refer. Generally, those favoring the motion to table opposed the Daschle motion; those opposing the motion to table favored the Daschle motion.

NOTE: A Dole first-degree substitute amendment to the instructions to the motion to commit and a Dole second-degree substitute amendment automatically fell when the motion was tabled. The Dole first-degree amendment to the motion to commit would have struck the instructions to add the Daschle substitute amendment and would instead have instructed the Judiciary Committee, in consultation with the Budget Committee, to issue a report entitled the "Need to Lead Report." Additionally, the amendment would have provided that "If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002." The Dole second-degree substitute amendment would have enacted provisions with the same effect as the Dole first-degree amendment.

A motion to commit and a motion to refer are the same motion (see vote No. 63). Such a motion is not amendable, but instructions thereto are amendable in two degrees (see Riddick's, amendment chart 1). The Daschle amendment No. 232 was not offered as an amendment to the motion, but as part of the instructions. In other words, though it was referred to as an amendment, it was not an amendment for parliamentary purposes.

Those favoring the motion to table the Daschle motion contended:

The Daschle motion has not been offered to improve the balanced budget amendment, but to kill it. It is an unworkable, poorly crafted, and unconstitutional attempt to stop passage of this resolution which the American people favor. Not one Member seriously expects it to ever be ratified. The only reason it has been offered is to give those Senators who falsely profess support for a balanced budget amendment an excuse for voting against this resolution or opposing its ratification. They may have their vote, but the American people will not be fooled.

The ostensible purpose of the lengthy additions to the balanced budget amendment that would be made by the Daschle motion would be to require the adoption of a detailed plan to balance the budget before the amendment could even be submitted to the States for ratification. Some Senators have called this a "right-to-know" proposal, but in reality it is a "right-to-stall" proposal. It is a proposal to continue with the same policies that have failed for decades.

In 34 of the last 35 years the Federal Government has failed to balance its budget. During those years spending has never declined. Occasionally, one party or the other has trumpeted some decline in the rate of increase in spending as a great legislative achievement, but spending restraint has never been exercised. Similarly, the tax burden on Americans at all income tax levels has steadily increased. Each new tax increase has been accompanied by even greater spending. Over the years the problem has snowballed as numerous legislative attempts to solve it have failed. Those attempts have fallen into two categories--process fixes like Gramm-Rudman-Hollings, and tax hikes with promised spending cuts (that never materialize), like the 1993 tax hike passed by President Clinton and Democrats in Congress.

Against this background, we urge our colleagues to look at the supposed intent of the Daschle proposal. Basically, it would require Congress to pass detailed budget and tax reconciliation instructions to achieve a balanced budget covering a 7-year time span before even asking the States to consider ratifying the balanced budget amendment. This requirement is nonsensical. We remind our colleagues that the reason we have this resolution before us is precisely because Congress has been unable to agree and stick to such a plan. It cannot say "no" to special interest groups demanding money and threatening retaliation at the polls if it is not provided. The Daschle proposal, in essence, demands that Congress cure itself before it can have the balanced budget amendment medicine that it needs.

Of course, we sincerely doubt that most of our colleagues who support this motion have this intent. We do not believe that they think it is reasonable to ask Congress to prepare, in 1 year, a detailed, 7-year budget, with predictions of the exact date for every spending and every tax change that will occur in those 7 years. Further, their proposal for omnibus reconciliation bills to enact those tax changes without alteration cannot be taken seriously. We ask Senators to back time up 7 years--would they hold themselves bound to tax and spending proposals for this year that were made in 1988 by the 100th Congress? One Congress in one session cannot accurately predict the tax and spending choices that are going to be made in future Congresses. Certainly plans can be proposed, and certainly many plans have been proposed, but to suggest to the States when a balanced budget amendment is submitted to them that a particular plan is going to be followed is dishonest. Each year the major work of Congress is to decide how to exercise the power of the purse. No plan that is proposed will alter this fact.

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Some Senators support the Daschle motion because they want to use specific proposed spending cuts to whip up opposition to the balanced budget amendment. They are quite candid about this purpose. They are certain that when priorities are weighed against each other under a balanced budget requirement welfare spending will be cut. They would rather continue running deficits than cut welfare spending, and they think most Americans would agree with them. Their openly stated hope is to have Congress adopt a plan that advocates cuts in social services spending, because they think that the States will not ratify the amendment if they think social services will receive less funding. We think that some other Senators who profess support for balancing the budget secretly agree with these Senators who hope to use the Daschle motion to destroy the balanced budget amendment.

During the course of this debate the President has submitted his budget proposal, which clearly aligns him with those Members who openly advocate continued deficit spending. Right now, the national debt is \$4.8 trillion. Under President Clinton's latest proposal, annual deficits will exceed an average of \$200 billion for the next 5 years, raising the debt to over \$6 trillion, and increasing the per-person debt from \$18,500 to \$26,000. Given the obvious intent of this President and of many Senators to continue driving the United States into bankruptcy, we think that the pending Dole substitute amendment would appropriately ask the question that really needs answering, "If the President and his allies succeed in killing this balanced budget amendment, how do they plan on saving the country from insolvency?" Surely it is more important to know how they plan on succeeding when there is no requirement to balance the budget than it is to know how we will succeed when success is assured.

Some Senators who want to balance the budget may honestly believe that a 7-year plan should be adopted to serve as a rough guide of how this Congress, at least, would try to balance the budget if it had to make every tax and spending decision for the next 7 years in advance. However, any such Senators should still be greatly troubled by the Daschle proposal. The Constitution is meant to define broad, immutable principles--it is not designed to contain requirements for studies, plans, or similar legislative language covering one small point in time. The Daschle proposal would literally more than double the length of this proposed constitutional amendment with agonizingly detailed statutory language. For example, it would write into the Constitution the Budget Committee and the Congressional Budget Office, it would make two references to one specific provision of statutory law, and it would litter the Constitution with technical accounting terms like "aggregate levels of new budget authority" and "major functional categories." Astoundingly, some of the very same Senators who have accused us of trivializing the Constitution because we support a balanced budget amendment themselves support the Daschle motion. If this motion were to become part of the Constitution, the United States would have four branches of government--the Executive Office, the Congress, the Judiciary, and the Congressional Budget Office.

The Daschle motion not only trashes the Constitution, it is blatantly unconstitutional. Article V of the Constitution sets forth the exclusive conditions for promulgation of a constitutional amendment. Under Article V, once Congress has passed an amendment by the necessary two-thirds margin in each House it must be promulgated to the States for ratification. Congress absolutely may not pass an amendment and then hold it until further conditions are met. The act of promulgation is a ministerial act that must be performed once the two-thirds vote has been obtained. In *INS v. Chadha*, the Supreme Court clearly expressed the principle that when the Constitution sets out a methodology, Congress cannot expand, contract, or otherwise alter it. During debate on this issue, some Senators have confused constitutional conditions on ratification with unconstitutional conditions on promulgation. The Constitution, and precedent, both clearly give Congress the duty to specify the "mode of ratification," which includes the setting of time limits such as the limit in this amendment. It does not give it any authority to alter the ministerial requirement for promulgating a constitutional amendment once it has passed both Houses.

Opposition to the Daschle motion should be, and is, bipartisan. Though it is an unfortunate reality that some Democratic Members have tried to make this debate a partisan issue for other Democrats, in the end we do not believe that this tactic will prevail. Many individual Democratic Members, including several liberal Members, understand that failing to pass the balanced budget amendment will ultimately harm the social spending programs they favor. They also understand that the Daschle motion, if passed, would place an unattainable condition on the submission of this amendment to the States for ratification, and they will consequently vote against it. Last year Senator Daschle himself could have been counted on to oppose this motion. During debate on a balanced budget amendment in 1994 that was virtually identical to this amendment, he opposed passing a budget plan before passing a balanced budget amendment, noting that, "Congress and the President will have 7 years to address the current deficit and reach a consensus on our Nation's budget priorities."

The task before us is admittedly daunting, but it is not impossible. Numerous balanced budget plans already exist; we need only dedicate ourselves to the task of hammering out sound fiscal policies year by year. Further, as many Senators have pointed out, balancing the budget would not necessarily involve a slash-and-burn approach. Simply by slowing the expected rate of growth in non-Social Security spending the budget could be balanced. No real cuts would have to be made. Obviously, though, many of our colleagues are unimpressed by these facts; they are convinced that the result of passing this amendment would be to slash a few of their favorite programs instead of spreading the burden equally.

If this debate proves anything, it is that we cannot agree. For the past several decades we have been unable to agree, and, without this amendment, nothing will change. Members will still blame each other for failing to reach agreement, there will still be partisan finger-pointing and bickering over who passed the largest tax increases or who used the most egregious budgeting gimmicks, but the inexorable drive into bankruptcy will continue. Americans know the process is broken. They do not want Members to continue on auto-pilot--they want them to pass this amendment to fix the process and enforce fiscal discipline. Stalling tactics like the Daschle

motion will not fool the American people.

Those opposing the motion to table contended:

As an abstract notion the idea of a balanced budget has universal appeal. The ideas of tax cuts, and, to a lesser degree, defense budget increases, also enjoy great popular support. Our Republican colleagues did very well in the last election by promising all three in their campaign document "Contract with America." We agree that these ideas sound wonderful in the abstract, but we do not think they sound so wonderful when they are looked at in the cold light of reality. Some of us who support the Daschle motion support passage of the balanced budget amendment as bitter medicine that must be taken; others of us strongly oppose passage of this amendment. However, we agree that Americans have a right to know exactly what they are being asked to ratify--they should not ratify it thinking the task will be easy. They must know ahead of time the hardship that its passage will cause.

The promises in the Contract with America are the same as the promises that Republicans made in 1980 when they captured the White House and the Senate. Then, as last year, Republicans promised to balance the budget, cut taxes, increase defense spending, and protect Social Security. In 1980 they delivered on the later three promises by breaking the first enormously. Frankly, if they are going to do better this time around, they are going to cause incredible hardship for some of the most vulnerable Americans. Representative Arney already admitted as much, when he said that telling Americans and Members up-front exactly what Republicans intend to do to balance the budget would doom passage of this amendment. In his words, the cuts that are planned would make our knees buckle if we were to hear them.

A simple, thumbnail examination of the few details that the Republicans have released so far make us tend to believe Representative Arney. First, 14 percent of the Federal budget is spent paying interest on the debt, which cannot by law be reduced; second, 21 percent of the budget is spent on Social Security, which Republicans have promised not to cut; third, 17 percent of the Federal budget is spent on defense, which the Republicans have promised to increase; and fourth, the Republicans have promised to cut, not raise, taxes. Thus, with fully 52 percent of the budget protected, and with an absolute refusal to raise new taxes, the only way our colleagues can balance the budget is by cutting the remaining 48 percent. Turning our attention to this remaining 48 percent, we find that 19 percent of it is comprised of programs which we doubt that Republicans will cut. These programs include veterans benefits, military retirement, Federal prisons, and the Federal Bureau of Investigation. Thus, we are now down to less than one-fourth of the budget which will be required to absorb \$1.5 billion in cuts over the next 7 years. This quarter of the budget includes Medicare, unemployment benefits, welfare, and school lunches.

Perhaps more to the point, it includes all the programs that provide Federal aid to State and local governments. This aid is not insignificant; on average, 25 percent of State budgets consist of Federal grants. Most of these grants are to help States take care of their needy citizens. A total of 64 percent of Federal grants to States are for welfare checks and Medicaid; 16 percent are for education, job training, and foster care and adoption; 11 percent are for highway grants; and 9 percent are for all other Federal programs, including community development block grants and public health clinics. We imagine that the States would be interested to learn that if they ratify the balanced budget amendment they will undoubtedly lose a great deal of Federal funding. As we said at the outset, some of us want the States to have this information so that they can prepare for the implementation of this amendment, while others of us want them to have it so that they will reject ratification. Either way, though, the States have a right to know exactly what they are being asked to approve.

In arguing against the Daschle motion, some Senators have suggested that it is unconstitutional. This suggestion is simply a diversionary tactic that cannot withstand a rational examination. The Constitution very clearly and plainly says, in language that can be understood by anyone, that there are two requirements to amend the Constitution--two-thirds of each House must pass an amendment, and three-fourths of each House must ratify it. Congress may choose between one of two options for ratification. No further stipulations are made in the Constitution. Still, our colleagues have suggested that adding a condition before submitting an amendment for ratification is unconstitutional because no express permission for doing so is written into the Constitution. However, neither is there any express permission to add a time limit for ratification, yet our colleagues have done so. Now, we may not be constitutional lawyers, but we see little practical distinction between adding a limit on time and adding a condition before submitting the amendment for ratification. Adding such a condition, in fact, is clearly within the constitutional purview of Congress under Article I of the Constitution, which gives each House the power to establish its rules of procedure.

This right-to-know proposal asks Congress to tell us how, over the next 7 years, it will reduce spending in one-fourth of the budget enough to bring the whole budget into balance. It is a simple, commonsense proposal that merits our support.